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EXAMINER	
NAKARANI, DHIRAJLAL S	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/683,531
Filing Date: October 10, 2003
Appellant(s): SCHWARK ET AL.

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GROUP 1700

Mark B. Quatt
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed April 24, 2006 appealing from the Office action mailed November 29, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,681,650	PEIFFER et al	10-1997
5,708,084	HAUENSTEIN et al	01-1998

5,834,079	BLINKA et al	11-1998
6,080,489	MEHTA	06-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-6, 9-16 and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blinka et al (U.S. Patent 5,834,079) in view of Peiffer et al (U.S. Patent 5,681,650), Hauenstein et al (U.S patent 5,708,084) and Mehta (U.S patent 6,080,489).

Blinka et al. disclose a multilayer film comprising internal layer comprising an oxygen scavenger between two outer layers, each layer comprising a polymer layer (Figs. 2-5, col. 6, lines 52-53). Blinka et al's polymers include claimed polymers (Col. 5, lines 25-61). Blinka et al's oxygen scavenger and catalyst includes claimed oxygen scavenger and catalyst (Col. 1, line 65 to col. 4, line 11). Blinka et al's multilayer film includes oxygen barrier layer (claim 11). Blinka et al also disclose addition of antiblocking agent and lubricant (AB1). Blinka et al fail to disclose lubricant such as claimed siloxane material in the outer layer.

Peiffer et al disclose a multilayer film having a polyolefin based outer layer containing antiblocking agent and silicone oil with viscosity up to 3,000,000 mm^2/S (Col. 6, lines 17-67). Peiffer et al fail to disclose claimed viscosity of siloxane material (silicone oil).

Hauenstein et al disclose a polyolefin composition containing siloxane material having viscosity of $2.5x10^7$ cps and number average molecular weight of 400,000 (Col.

2, lines 9-14 and Example 2). Hauenstein et al disclose that addition of such siloxane material improved hydrophobicity, processability etc (Col. 1, lines 5-30).

Mehta discloses addition of blend of low molecular weight polysiloxane and high molecular weight polysiloxane to thermoplastic polymer reduces co-efficient of friction (Abstract). Mehta's low molecular weight polysiloxane has number average molecular weight from 40,000 to 105,000 and high molecular weight polysiloxane has number average molecular weight from 60,000 to 2,000,000.

Therefore it would have been obvious to a person of ordinary skill in the art to which this invention pertains to utilize disclosures of Peiffer et al, Hauenstein et al and Mehta in the invention of Blinka et al to add Mehta's polysiloxane blend in the outer layer with antiblocking agent to improve processability and to reduce co-efficient of friction.

(10) Response to Argument

In reference to rejection of claims 1-6, 9-16 and 18-22 under 35 U.S.C. 103(a) as being unpatentable over Blinka et al (U.S. Patent 5,834,079) in view of Peiffer et al (U.S. Patent 5,681,650), Hauenstein et al (U.S patent 5,708,084) and Mehta (U.S patent 6,080,489), appellants mainly argue that only Blinka et al disclose an oxygen scavenger. None of Peiffer et al, Hauenstein et al or Mehta disclose an oxygen scavenger. None of the recited references addresses the problem of solving the challenge of providing both oxygen scavenging activity and a low coefficient of friction (COF) in a single film. Conventional combinations of inorganic antiblock and amide wax slip agents can be effective for producing a low COF. Conventional amide wax usage in oxygen scavenging films significantly degrades oxygen scavenging rate.

These arguments are unpersuasive because Blinka et al do not suggest addition of amide wax in combination with inorganic antiblock. Blinka et al disclosed use of inorganic antiblock in the outer layer. Peiffer et al, Hauenstein et al and Mehta disclose combination of silicone oil and inorganic antiblock to reduce COF and not the combination of amide wax and an inorganic antiblock to reduce COF. Peiffer et al clearly disclose that conventional synergistic combination of silicon oxide (SiO_2) as antiblock, silicone oil and aliphatic amine or carboxamide (amide wax) has advantageous surface slip (COF) but films have deficient blocking behavior at elevated temperature. Peiffer et al state that the films of the prior art are unsatisfactory with respect to their running properties, their heat-sealing properties and their blocking values at elevated temperature (Col. 1, line 39 to col. 2, line 10). Mehta's high molecular weight polysiloxane is a hydroxyl terminated polydimethyl siloxane having number average molecular weight of $4.4X10^5$ (Col. 5, lines 46-47 and col. 6, lines 28-29). Mehta's Table 1 shows 0.250 COF and Table 2 show 0.380 COF. Hauenstein et al disclose hydroxyl terminated dimethylsiloxane having number average molecular weight of 400000 ($4.0X10^5$) has viscosity of $2.5X10^7$ cps (Example 2). Therefore Mehta's high molecular weight polydimethylsiloxane has viscosity within the claimed range. Mehta also mentions U. S. Patent 5,708,084 at column 1, line 14.

Therefore it would have been obvious to a person of ordinary skill in the art at the time of this invention made to utilize disclosures of Peiffer et al, Hauenstein et al and

Mehta in the invention of Blinka et al to add Mehta's polysiloxane blend in the outer layer with antiblocking agent to improve processability and to reduce co-efficient of friction.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

DSN

May 13, 2006

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